



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
403 WAPPING STREET
FRANKFORT, KENTUCKY 40601

ANTHONY M. WILHOIT
Court of Appeals

THOMAS J. KNOPF
District Court

JOSEPH H. ECKERT
Circuit Court

B. M. WESTBERRY, CHAIRMAN
Attorney

UHEL O. BARRICKMAN
Attorney

Judicial Ethics Opinion
JE-69

Formal Opinion

Question # 1: Must a judge disqualify himself in cases in which his ex-wife is a primary witness?

Answer # 1: There is no automatic disqualification. A judge is free to exercise his own discretion as to whether he can be fair and impartial.

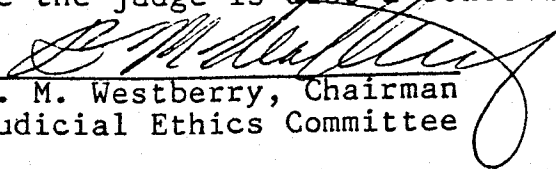
Question # 2: Is a judge permitted to sit on the Citizens' Advisory Board for the Mayfield Girls' Group Home or the Mayfield Boys' Group Home?

Answer # 2: No. This does not appear to fall under the educational exception to Canon 5 G. The frequency with which the Home would be in litigation before the judge is also a concern.

A district judge has written the Judicial Ethics Committee with two questions. The first is, must he disqualify himself from juvenile cases in which his ex-wife is a primary witness by virtue of her position as director of the Mayfield Girls' Group Home? A majority of the Committee believes the answer should be that there is no automatic disqualification. This situation is not specifically addressed by the Code. Once the divorce is final there is no disqualifying relationship between the judge and the witness. A judge is free to exercise his own discretion as to whether he can be fair and impartial.

The second question concerned whether a judge could serve on the Citizens' Advisory Board for the Mayfield Girls' Group Home or the Mayfield Boys' Group Home. The answer to this question is no. This situation does not appear to fall within the educational exception to Canon 5 G. The Mayfield Group Homes are run by the Cabinet for Human Resources, which makes the Citizens' Advisory Board a governmental committee. Service on the Board is therefore prohibited by Canon 5 G. Essentially, the

same reasoning we used in Judicial Ethics Opinion JE-65 applies. The frequency with which the organization is involved in litigation before the judge ~~is also a concern.~~


B. M. Westberry, Chairman
Judicial Ethics Committee